

ANDREW TYLER FOSTER, ET AL, )  
 )  
 Plaintiff, ) No. 6:15-CV-03519-BCW  
 ) February 6, 2017  
 v. ) Kansas City, Missouri  
 ) CIVIL  
 L-3 COMMUNICATIONS EOTECH, )  
 )  
 Defendant. )

TRANSCRIPT OF TELEPHONE CONFERENCE  
BEFORE THE HONORABLE BRIAN C. WIMES  
UNITED STATES DISTRICT JUDGE

Proceedings recorded by electronic voice writing  
Transcript produced by computer

APPEARING BY TELEPHONE

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1                   February 6, 2017

2                   (Proceedings began at 10:30 AM)

3                   THE COURT: Good morning, Counsel.

4                   MR. DOLLAR: Good morning.

5                   MR. GODFREY: Good morning, Your Honor.

6                   THE COURT: I know you all have given your names to  
7 my law clerk, who is on the call. I won't go through all the  
8 names again, they are already on the record.

9                   Let me ask -- I know I was going to have a status or  
10 an update conference was the purpose of today's conference  
11 call so.

12                  Let me go to, Mr. Dollar?

13                  MR. DOLLAR: Yes, Your Honor. If I could just go  
14 ahead and leadoff? I am prepared to do so.

15                  THE COURT: Yep, that is fine.

16                  MR. DOLLAR: Okay.

17                  First thing, we appreciate the Court today indulging  
18 us to moving the previous scheduled conference until today.

19                  The parties felt that was important because we had  
20 reached a settlement some time ago based upon numerous  
21 meetings in various places in New York and Washington DC. But  
22 as the Court knows there are complicated issues surrounding  
23 the settlement, and we needed to get together one final time  
24 in an effort to close the loops on some substantive issues and  
25 some non-substantive issues.

Denise Carroll Halasey CCR, CVR-CM

1 I'm pleased to report that as a result of that  
2 meeting last week in Washington DC, the parties now believe  
3 that we have reached a settlement. We came away from that  
4 meeting with the broad outline of a written agreement that has  
5 now been circulated back and forth many, many times since that  
6 date. But I believe after my phone call with Mr. Dwelkotte,  
7 who could not make the call this morning, but we talked this  
8 morning just before the call, I believe that we are -- I'll  
9 call it within an eyelash of having a final settlement  
10 agreement.

11 That will then result in a joint motion that I  
12 expect to be filed within a day or two asking the Court for  
13 preliminary approval of our settlement, which the Court knows  
14 is required.

15 So the parties have a joint motion, we have an  
16 agreement, and we are submitting with that proposed  
17 preliminary motion a proposed order for your review.

18 I would add to all of that discussion and invite  
19 Mr. Godfrey to comment, that one of the issues that caused us  
20 the most difficulty in reaching final agreement was the  
21 timeframe of the notice plaintiffs had an interest of making  
22 sure that was in line with what we believed would stand  
23 scrutiny. There are issues that are internal to the company  
24 and unrelated to the litigation that require that period start  
25 and end rather quickly.

1           And in therefore, we had to come up with a way to  
2     get before you our motion for preliminary approval. Get,  
3     hopefully, an order signed by you since it is unopposed and it  
4     is joint. So that the media buy could start very quickly.  
5     We've reached an agreement on that, and that's why we expect  
6     to have the motion before you within a day or two. And we  
7     would hope -- obviously, the Court has to review it and has to  
8     make its own decision, but our hope is that we could get that  
9     order signed maybe as soon as Thursday or at the latest Friday  
10    this week, so that it would fit within the timeframe of the  
11    company's internal needs to begin a media buy and notice. So  
12    that was an integral part of the substantive part of our  
13    agreement.

14           With that in mind, I think everyone is on the same  
15    page and prepared to move forward as I've outlined. And I'll  
16    invite Mr. Godfrey to disagree or respond in anyway he thinks  
17    appropriate.

18           THE COURT: Mr. Godfrey?

19           MR. GODFREY: Yes, good morning, Your Honor. I  
20    think that Mr. Dollar has outlined very well where the parties  
21    intend and hope to be able to deal within a day or so. So I  
22    don't have anything to add to what he has covered this  
23    morning.

24           THE COURT: Great. If parties agree then I tend to  
25    go with the parties. If there's a sensitivity to time and

1 Thursday being it, you know, obviously, the sooner you can get  
2 that joint agreement filed, the quicker we can take a peek.  
3 But if there's a timeline -- I don't need to know necessarily  
4 what the internal things are. You know, but if the parties  
5 agree, I will certainly try and accommodate so we can reach  
6 that goal.

7 Let me ask this question, what is the notice, the  
8 timing of the notice? Because once the Court approves a  
9 preliminary, you have to send out notice. What is that --  
10 I've done these, but I'm trying to scratch my head. How long  
11 typically the Court gives?

12 MR. DOLLAR: Well, so that was part of our  
13 negotiated resolution here, Your Honor. And so somebody can  
14 correct me if I am wrong, but the ultimate agreement calls for  
15 60 days. So there is a 30 day media buy, and anyone can file  
16 a claim within that 30 day media buy, but at the close of that  
17 media buy they would have an additional 30 days.

18 And that is at least within the framework of what I  
19 understand are the federal guidelines, and within the  
20 framework of what other cases had reasonably approved.

21 Certainly there are claim periods that are longer.  
22 But this was the agreement that we reached and fits within  
23 those guidelines.

24 Does anyone disagree?

25 MR. GODFREY: No. This is Rick Godfrey. I think

1 that that is correct.

2 THE COURT: Okay. Well, that's good. I can tell  
3 you from my perspective, you know, just as soon as we get it  
4 filed, whether it is tomorrow or the next day, then I'll make  
5 sure I'll take a look. Since I know it is time sensitive to  
6 Thursday or Friday, more than likely I will do it Thursday.  
7 Yeah, but the quicker you can get that filed with the Court,  
8 the quicker we can take a peek at it to make sure.

9 If, for any reason, I had any questions, I would get  
10 you guys on the phone quickly, but I don't think anything  
11 would prevent the Court from signing off after I take a look  
12 on Thursday and at the very latest Friday.

13 MR. DOLLAR: All right, Your Honor. Thank you very  
14 much.

15 MR. GODFREY: Very good, Your Honor. Thank you.

16 THE COURT: I think that has covered it all. I will  
17 be waiting for your filing.

18 If there is nothing further I appreciate you all  
19 getting on the phone and we will talk soon, I'm sure.

20 MR. DOLLAR: Thank you.

21 MR. GODFREY: Thank you.

22 (THEREUPON, the following proceedings were adjourned.)  
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CERTIFICATE

I certify that the foregoing is a correct transcript  
from the record of the proceedings in the above-entitled  
matter.

February 17, 2017

/s/ Denise C. Halasey  
Denise C. Halasey, CCR, CVR-CM  
United States Court Reporter